

525 Market Street, 17th Floor, San Francisco, CA 94105-2725

Tel: 415.433.0990 Fax: 415.434.1370

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February 21, 2012

Honorable Jeffrey S. White  
United States District Court  
Northern District of California  
Courtroom 11, 19<sup>th</sup> Floor  
450 Golden Gate Avenue  
San Francisco, California 94102

Re: *Parry v. National Seating & Mobility*  
Case No. 3:10-cv-02782-JSW  
Our File No.: 11576.00001

Dear Judge White:

I represent Counter-Claim Defendant National Seating & Mobility, Inc. ("NSM") in the above-entitled matter. I write to seek leave to file a sur-reply in response to the Reply Memorandum of Points and Authorities in Support of [Renewed] Motion for Class Certification filed by Counter-Claimant Michael Parry ("Parry").

Parry has offered extensive evidence and legal argument in his reply briefing that was not raised in his moving papers. Most significantly, Parry has included "surveys" of the law in all 50 states with respect to the class claims in this action (fraud, negligent misrepresentation and breach of the implied covenant of good faith and fair dealing).<sup>1</sup> Parry claims that these surveys demonstrate that "there are no substantial conflicts of law that would prevent certification here." Parry has also proposed a bifurcated trial for the first time in his reply briefing.

NSM requests the opportunity to respond to this new evidence and argument. Specifically, NSM requests that the Court continue the hearing on this matter for two weeks to March 16, 2012 (or any date thereafter that is convenient for the Court) and that NSM be granted leave to file a sur-reply of up to 15 pages no later than March 2, 2012.

Very truly yours,

WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP

/s/ Ronald Bushner

Ronald S. Bushner

cc: Mark P. Meuser, Esq.  
C. Brooks Cutter, Esq.  
John R. Parker, Jr., Esq.

**The Court does not accept letter briefs. Accordingly, the requests set forth herein are denied without prejudice.**

**February 23, 2012**

<sup>1</sup> Parry has curiously also included a survey of breach of contract law though Parry does not allege a breach of contract claim for breach of contract.

